GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

PUBLIC SERVICES – Water Resources Department – Imposition of punishment of 50% cut in pension reduced to that of 5% (Five percent) cut in pension permanently against Sri B.Venkata Subbaiah, Superintending Engineer (Retired) in order to implement the common judgment of Hon'ble APAT in its OAs No 9725/2011 and OA No.9736/2011 with MA No.478/2013, dated 15.12.2015 and as well as further directions of Hon'ble APAT in its orders dated 05.02.2018 in C.A.No. 718 of 2016 in OA No.9725 of 2011 – Orders – Issued.

WATER RESOURCES (VIG.II (V&E.1)) DEPARTMENT

G.O.RT.No. 306 Dated: 27-04-2018

Read the following:-

1	G.O.Ms.No. 21, I&C.A.D.(Ser.VII.(V&E)A.1) DEPT, Dated: 11.02.2004.
2	From the Secretary, APPSC, Hyderabad Lr.No. 1106/RT-I/1/2009, dated:19-10-2009.
3	G.O.Ms.No. 290, I & C.A.D. (Ser.VII.(V&E)A.1) DEPT, Dated:09-11-2009.
4	From Sri B.Venkata Subbaiah, SE (Retd) appeal, dated: 28.07.2010 and 12.07.2011.
5	From the Hon'ble APAT Interim orders dated:21.12.2011 in O.As.No.9736/2011 filed by Sri B.Venkata Subbaiah, SE (Retd)
6	Govt., Memo No. 12374/ser.VII (V&E) A1/ 1994-110, Dated. 14.05.2012.
7	Common Orders dated:04.06.2015 of the Hon'ble Tribunal in O.As.No.9725/2011 and O.A. No.9736/2011 with M.A.No.478/ 2013.
8	Govt. Memo No. 12374/Vig.II(V&E)A1/1994-120, dated: 26.10.2017
9	From the APAT Orders dated:28.11.2017 in C.A.No.718 of 2016 in OA.No.9725/ of 2011
10	Govt.Memo No. 12374/Vig.II(V&E)A1/1994-123, dated: 27.12.2017
11	From the APAT Orders dated:05.02.2018 in C.A. No.718 of 2016 in OA.No.9725/ of 2011
12	Govt.Letter No. No.12374/Vig.II(V&E) /A1/ 1994-126, dated:26.02.2018
13	From the Secretary, APPSC, Lr. No.170/ DC &C/2018, dated:20.03.2018

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O R D E R

In the reference 1st read above, after following due procedure orders were issued imposing a punishment of 100% cut in pension besides withholding of entire DCRG against Sri B.Venkata Subbaiah, Superintending Engineer (Retired).

2. In the reference 2nd read above, the Secretary Andhra Pradesh Public Service Commission advised to impose punishments of 50% cut in pension permanently against Sri B.Venkata Subbaiah, Superintending Engineer (Retired) along with other officers as decided by the Government.

3. In the reference 3rd read above, orders were issued reducing the punishment of 100% cut in pension besides withholding entire DCRG to that of 50% cut in pension permanently against Sri B.Venkata Subbaiah, Superintending Engineer (Retired).

4. In the reference 4th read above, Sri B.Venkata Subbaiah, Superintending Engineer (Retired) have preferred an appeal petition before the Government with a request to drop further action against him and also filed O.A No.2531 of 2004 in the Hon'ble Andhra Pradesh Administrative Tribunal for release of all retiral benefits.

(p.t.o.)

5. In the reference 5th read above, the Hon`ble Andhra Pradesh Administrative Tribunal in its interim orders dated 21.12.2011 directed the respondents to dispose of the representation/ Review petition pending before the Government and pass appropriate orders as per rules within a period of six weeks from the date of receipt of the order.

6. In the reference 6th read above, the application of Sri B.Venkata Subbaiah, Superintending Engineer (Retired) requesting to extend the same benefit awarded to Sri D.Hampaiah, DEE(Rtd), was rejected as the the reduction in penalty against Sri D. Hampaiah, Dy.EE(Retd.) was on humanitarian grounds and not on merits, as Sri D. Hampaiah was suffering from liver cancer, and was unable to meet his Medical Expenses.

7. In the reference 7th read above, the Hon'ble Tribunal in its common orders in O.As.No.9725/2011 and O.A.No. 9736/2011 with M.A.No. 478/ 2013 has made the following judgment:-

> "In view of the findings on the points, the impugned Memos No.12374/Ser.VII (V&E)/A1/1994-109 dt. 14.05.2012 and No.12374/Ser.VII (V&E) A1/1994-110 dt. 14.05.2012, rejecting the claim of the applicants covered by this batch of OAs respectively, are set aside. Following the principles of law laid down by the Hon'ble Apex Court in a recent decision in the case of LUCKNOW K.GRAMIN BANK & ANR vs RAJENDRA SINGH in civil Appeal No.6142/2013 dt. 29.07.2013, the matter is remitted back to the 1st respondent to consider the representations of the applicant in OA.9725/2011, dated:6.9.2010 and 22.06.2011 and representation of the applicant in O.A. 9736/2011 dt.12.07.2011 in the light of the principles of law laid down by the Hon'ble Apex Court in the case of RAJENDRA YADAV vs STATE OF M.P & ORS. Reported in 2013 (2) SCALE 416 and pass appropriate orders in the matter modifying the penalty imposed against the applicants covered by these OAs in the light of the imposed/modified penalty on Sri S.Konda Reddy, AE (Retd.), Sri D.Satyanarayana, AE(Retd.) and Sri D.Hampaiah, DEE (Retd.), the similarly situated persons by maintaining parity in the matter of penalty, within six weeks from the date of receipt of a copy of the order."

8. In the Govt. Memo. 8th read above, after careful re-examination the entire case keeping in view of the earlier judgment of Hon'ble Andhra Pradesh Administrative Tribunal, further common judgment of Hon'ble Andhra Pradesh Administrative Tribunal in its OAs No 9725/2011 and OA No.9736/2011 with MA No.478/2013, dated 15.12.2015 and the representations of Sri B.Venkata Subbaiah, Superintending Engineer (Retired), it was decided that to confirm the punishment of 50% cut in pension holds good as a measurement of punishment against him as his request was already considered earlier as per Court directions of O.A.No.2531/2004 dated:15.10.2009 and orders issued and the representation of Sri B.Venkata Subbaiah, Superintending Engineer (Retired)have been rejected.

9. In the reference 9th read above, the Hon'ble Andhra Pradesh Administrative Tribunal in its orders dated 28.11.2017 in C.A.No. 718 of 2016 in OA No.9725 of 2011 has observed and directed are as follows:-

> 1. This Tribunal while disposing of the OA.No.9725/2011 on 04.6.2015 has directed the respondents to consider the case of the applicant in terms of the two judgments of the Apex court and also in the light of the punishment imposed on three individuals namely S.Konda Reddy, D.Satyanaryana and D.Hampaiah.
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> 2. Today, learned Government Pleader furnished proceedings in Memo.No.12374/Vig.II(V&E)A1/1994-119, dt 26.10.2017, wherein the same punishment was imposed on the applicant was confirmed by the Government. However, the proceedings running to three and a half pages, most of it speaks about the history of the case and no consideration as directed by this court is traceable from these orders.

(contd..p3)

10. In the Govt. Memo. 10th read above, after careful re-examination the entire case keeping in view of the earlier judgment of Hon'ble Andhra Pradesh Administrative Tribunal, further common judgment of Hon'ble Andhra Pradesh Administrative Tribunal in its OAs No 9725/2011 and OA No.9736/2011 with MA No.478/2013, dated 15.12.2015 the representations of Sri B.Venkata Subbaiah, Superintending Engineer (Retired)have again been rejected.

11. In the reference 11th read above, the Hon'ble Andhra Pradesh Administrative Tribunal in its orders dated 05.02.2018 in C.A.No. 718 of 2016 in OA No.9725 of 2011 has observed and directed are as follows:-

> *However, despite the above, the respondents have maintained and sustained the punishment of 50% cut in pension of the applicants stating that earlier said issue was considered and 50% cut in pension permanently was confirmed and further stating that the gravity of his charge is correct and his involvement is different from that of all the above three persons for whom lesser punishment is imposed and finally sustained the punishment of 50% cut in pension permanently on the applicant. It is well settled law that once the court givers a finding in this case, both on gravity of charges and parity of punishment and directed to consider and pass appropriate orders, it does not mean that the authority was again given discretion to pass the orders of his choice. Therefore, I am of the considered view that the orders passed by the respondent Government i.e., the first respondent Secretary vide Memos dates 26.10.2017 and 23.07.2017 are not in accordance with the directions of the Tribunal and are contrary to the orders of this Tribunal, which amounts to contempt of the orders . Therefore, finally three more weeks time is granted to the respondents to implement the orders of this Tribunal strictly in its letter and spirit failing which this Court will be constrained to proceed further in the contempt case as per law and the case is posted for filing compliance report on 27.02.2018.*

12. Government, after careful re-examination of the entire issue have decided that the punishment of 50% cut in pension reduced to that of 5% cut in pension permanently against Sri B.Venkata Subbaiah, Superintending Engineer (Retired) in order to implement the common judgment of Hon'ble APAT in its OAs No 9725/2011 and OA No.9736/2011 with MA No.478/2013, dated 15.12.2015 and also further directions of Hon'ble APAT in its orders dated 05.02.2018 in C.A.No. 718 of 2016 in OA No.9725 of 2011 in order to avoid further legal complications in the matter.

13. Accordingly, In the reference 12th read above, the Secretary, Andhra Pradesh Public Service Commission, Vijayawada was requested to place the proposal of the Department i.e. the punishment of 50% cut in pension reduced to that of 5% cut in pension permanently against Sri B.Venkata Subbaiah, Superintending Engineer (Retired) in order to implement the common judgment of Hon'ble APAT in its OAs No 9725/2011 and OA No.9736/2011 with MA No.478/2013, dated 15.12.2015 before the Commission and communicate their concurrence.

14. In the reference 13th read above, the Secretary, Andhra Pradesh Public Service Commission, Vijayawada has informed that the Commission have agreed with the proposal of the department to the punishment of 50% cut in pension reduced to that of 5% cut in pension permanently against Sri B.Venkata Subbaiah, Superintending Engineer (Retired).

15. Government after careful examination of the matter, hereby order to reduce the punishment of 50% cut in pension to that of 5% (five percent) cut in pension permanently against Sri B.Venkata Subbaiah, Superintending Engineer (Retired) in order to implement the common judgment of Hon'ble APAT in its OAs No 9725/2011 and OA No.9736/2011 with MA No.478/2013, dated 15.12.2015 and as well as further directions of Hon'ble APAT in its orders dated 05.02.2018 in C.A.No. 718 of 2016 in OA No.9725 of 2011.

(contd.p4)

16. The Engineer-in-Chief(Admn.Wing), Water Resources Department, A.P., Vijayawada shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

SHASHI BHUSHAN KUMAR
SECRETARY TO GOVERNMENT

To

The individual **through** the Engineer-in-Chief (AW), Water Resources Department, A.P. Vijayawada.

The Engineer-in-Chief(AW) Water Resources department, Vijayawada.

Copy to:

The Accountant General, Andhra Pradesh, Hyderabad.

The Secretary, Andhra Pradesh Public Service Commission, New Government Offices Building 2nd Floor, M.G. Road (Bandhar Road), Opp: Indira Gandhi Municipal Complex, Vijayawada-520 010, Andhra Pradesh.

The Secretary, AP Vigilance Commission, A.P. Secretariat, Velagapudi, Amaravathi.

The Water Resources(Ser.I)Department.

The Director General and Ex-Officio Principal Secretary to Government, the General Administration (V&E) Department, 2nd Floor, Dr.NTR Administrative Block, P.N.Bus Station, Vijayawada-520002, Krishna District.

SF / SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER